

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**LaVerne Johnson,**  
Petitioner-Appellant,

v.

**Boone County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-08-1265**  
**Parcel No. 08-8527-16-14-00-002**

On April 2, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, LaVerne Johnson was self-represented and requested the appeal take place without hearing. The Boone County Board of Review designated County Attorney Jim Robbins as its representative. The Appeal Board now having examined the entire record, the written testimony, and being fully advised, finds:

***Findings of Fact***

LaVerne Johnson, owner of property located at 241 J Avenue, Pilot Mound, Iowa, appeals from the Boone County Board of Review decision reassessing his property. The real estate was classified agricultural for the January 1, 2011, assessment and valued at \$320,409; representing \$51,765 in land value, \$245,272 for dwelling value; and \$23,372 for improvement value.

Johnson protested to the Board of Review on the grounds that the property was not equitably assessed as compared with the assessments of other like properties under Iowa Code section 441.37(1)(a); the property was assessed for more than authorized by law under section 441.37(1)(b); there is an error in the assessment under section 441.37 (1)(d); and there is fraud in the assessment under section 441.37(1)(e). The Board of Review granted partial relief. It reduced the dwelling value

but increased the improvement value. It valued the land at \$51,765, the dwelling at \$8300, and the improvements at \$79,203 for a total value of \$139,268. The Board of Review changed the value, “after consideration of all data.”

Johnson then filed his appeal with this Board on the same grounds. Johnson claims \$102,930 is the correct value and its fair market assessment.

Johnson is concerned the Board of Review did not consider the information he submitted at its hearing. Johnson stated at hearing he was given an assessor recommendation sheet and asked if he would accept. Johnson informed the Board of Review he would need time to review the recommendation, and he questioned why it did not want to see or hear any of his information. The Board of Review allowed Johnson to submit his information, but the Chair then moved to approve the assessor’s recommendation immediately. This Board notes that none of the information Johnson submitted at the local hearing was part of the certified record.

Johnson’s major concern is that the Board of Review valued his utility building as a dwelling. Although the Board of Review granted some relief, he still believes the assessment is incorrect. The assessment still lists a dwelling value of \$8300, despite Johnson’s statement that there is no dwelling.

Johnson indicated he had a conversation with the Boone Assessor’s office. He was informed the assessment was determined by using the *Iowa Real Property Appraisal Manual*. Johnson obtained a copy of the *Manual* from the Department of Revenue. He used it to calculate his opinion of the correct value. Johnson also made corrections regarding the valuation of grain bins. He used a manual level of 1.00, indicating no adjustment, based on information he received from the assessor’s office. For the farm office and loft area he used actual costs because he could not determine values from the *Manual*. Based on his interpretation and application of the *Manual* and actual costs, Johnson determined a value of the subject property to be \$102,930.

The Board of Review submitted a brief which takes the position that Johnson is not contesting the land value of \$51,765; this Board would agree.

The Board of Review takes the position that Johnson has abandoned his inequity claim. Johnson submitted a rebuttal to the Board of Review's brief. Johnson states he did not abandon his equity claim and did submit evidence at the Board of Review hearing. However, because the information was not included as part of the certified record, and because Johnson did not resubmit it this Board, there is no evidence in the record supporting Johnson's claim.

Boone County contends there is no "fraud" in the assessment. In support of his fraud claim, Johnson submitted a copy of the equalization order by the Department of Revenue, and a letter to the conference board signed by the Director. While we acknowledge the serious nature of these documents, they fail to make a finding of fraud and relate to commercial property. Johnson also takes issue with the fact the Boone County Assessor's office professionally viewed and valued the property. He believes it "sounds nice;" however, the evidence does not support that position. Although it appears there were issues surrounding the assessment of properties in Boone County, this data is not specific to the subject property, and we cannot find there was fraud in this particular assessment.

The Board of Review also contends that any error in the assessment resulting in an incorrect market value and was corrected. The Board of Review states that the \$8300 in the value of improvements listed as dwelling are concrete parking and slabs located on the property. It also believes the difference in the grain bin being built in 2001 or 2004 is insignificant. The Board of Review, however, agrees the pole building should be adjusted. It recommends the building be reduced from \$52,641 to \$48,070, making the total assessment \$134,697. The Board of Review points out that an adjustment has been made for the difference in the building flooring for partial gravel floors.

This Board finds the original assessment of \$320,409 was totally incorrect. Although the Board of Review reduced the value to \$139,288 and now recommends an assessment of \$134,697, we

question, as does Johnson, if this property was, in fact, professionally valued. The Board of Review points out the evidence suggests the \$8300 dwelling value is attributable to concrete slabs and parking. However, if this is correct, these items should be listed and valued as improvements, not as dwelling value. Dwelling value is assessed at fair market value and agriculture improvements are assessed based on the productivity and net earning capacity method. Agricultural improvements would also receive the application of the ag factor. The \$8300 currently has no ag factor applied to it.

Based on the foregoing, we find the evidence supports Johnson's contention that there is an error in the assessment resulting in it being assessed for more than authorized by law. Although the dwelling value could be changed to improvement value and revalued based on productivity and net earning capacity, this Board finds it more appropriate to remove \$8300 the value. It is clear there is no dwelling on the property; likewise it remains unclear whether the \$8300 was correctly attributed and calculated in the first place. This \$8300 value should, therefore, be subtracted from the Board of Review's recommended value of \$134,697 for January 1, 2011. We suggest the Board of Review try to correct the assessed value in the future. The January 1, 2011, assessment is \$126,397.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*



*Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). However, if property is classified agricultural it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). No evidence in the record shows Johnson's property was inequitably assessed under either test.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Finally, section 441.37(1)(d) permits claims based on error in the assessment. The administrative rule interpreting this section indicates that the error may be more than what is alleged by

the Board of Review. While “[a]n error in the assessment *would most probably* involve erroneous mathematical computations or errors in listing the property[,] [t]he improper classification of property also constitutes an error in the assessment.” Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added).

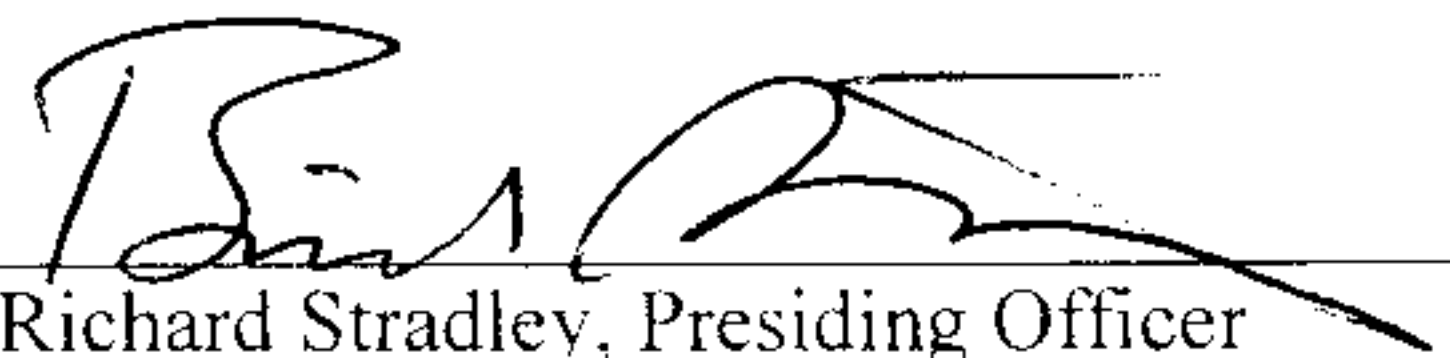
The evidence proves, and the Board of Review concedes, the subject property is assessed for more than the value authorized by law. We also find there is an error in the property’s assessment as there is a value attributed to “dwelling” value and no dwelling exists on the property. This attributed value results in an incorrect total assessment because no ag factor is applied to the dwelling value and it cannot be simply added to the improvement value

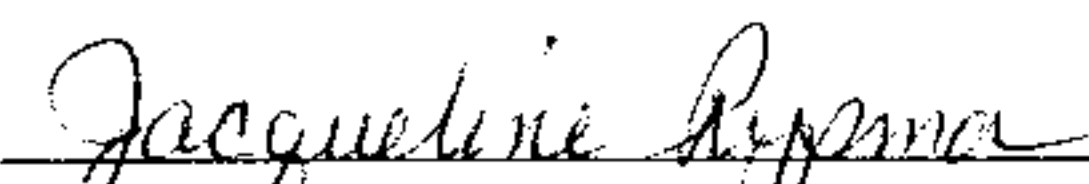
We, therefore, modify the assessment of the subject property located at 241 J Avenue, Pilot Mound, Iowa, as determined by the Boone County Board of Review for January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment is modified to \$126,397, representing \$51,765 in land value and \$74,632 in improvement value.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Boone County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected

Dated this 1 day of June 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member

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| Certificate of Service  |  |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-1</u> , 2012. |  |
| By:   | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX         |
|   | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier |
|   | <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other  |
| Signature   | <u><i>Jim Robbins</i></u>  |